

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to modify rules and regulations in the Experimental Fisheries Program (R.S. 56:571). The proposed changes add a native species of sturgeon to Domesticated Aquatic Organisms that are approved for use in aquaculture. This will allow the development of additional aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species.

TITLE 76

Wildlife and Fisheries

Part VII Fish and Other Aquatic life

Chapter 9 Aquaculture --Exotic Species TITLE 76

§905. Domesticated Aquatic Organisms

A. Procedures for Approving a New Species of Domesticated Aquatic Organism

1. – 6. ...

B. The following is a list of "Domesticated Aquatic Organisms" approved for use in aquaculture:

1. – 21. ...

22. Shovelnose Sturgeon (*Scaphirhynchus platyrhynchus*) see LAC 76:VII.911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A.(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009), LR 44: .

§911. Shovelnose Sturgeon

A. Rules and Regulations on Importation, Culture, Disposal and Sale of Shovelnose Sturgeon in Louisiana. The following terms shall have the following meanings in this Section.

Culture—all activities associated with the rearing and nurturing of Shovelnose Sturgeon.

Culture System—shall be an approved recirculating indoor system designed such that all water containing, or that at any time might contain, Shovelnose Sturgeon (adult fish, juvenile fish, fingerlings, fry and eggs) is filtered, screened and/or sterilized in such a manner as the Department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

Disposal—the business of processing, selling, or purposely removing Shovelnose Sturgeon from the culture system.

Permittee—the individual or organization that possesses a valid Louisiana Shovelnose Sturgeon permit.

Process—the act of killing Shovelnose Sturgeon, and proper disposal of Shovelnose Sturgeon in such manner as the Department deems necessary to prevent any possibility of accidental release of live fish.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Shovelnose Sturgeon—pure strain of genetically unaltered fish (adult fish, juvenile fish, fingerlings, fry and eggs), belonging to the species *Scaphirhynchus platyrhynchus*.

Shovelnose Sturgeon Permit—official document pertaining to culture of Shovelnose Sturgeon, and allows for the importation, exportation, transport, culture, possession,

disposal, transfer and sale of Shovelnose Sturgeon in Louisiana as approved by the Secretary or his designee.

B. Shovelnose Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live Shovelnose Sturgeon in Louisiana must first request a Shovelnose Sturgeon permit from the Secretary or his designee of the Department of Wildlife and Fisheries. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the:
Louisiana Department of Wildlife and Fisheries

Fisheries Permit Manager

P.O. Box 98000

Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Fisheries Division personnel will review the application. Department personnel or a Department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, Department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a Shovelnose Sturgeon permit. Department personnel will then recommend to the Secretary or his designee if the applicant's request should be approved or disapproved.

d. The Secretary or his designee will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval,

applicants may reapply after correcting specified deficiencies noted in the secretary's or his designee's letter of denial.

C. Rules on Transport of Live Shovelnose Sturgeon

1. Export of Live Shovelnose Sturgeon will not be allowed for Louisiana Shovelnose Sturgeon Permit.

2. For each occurrence of live Shovelnose Sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the Department. These importations will only be allowed from fish that are acquired outside of the Red River drainage, and limited only to those populations occurring outside of the range for the Similarity of Appearance listing for the species. These requests shall be made no less than three business days before the expected date of shipment. Procedures and necessary information for obtaining approval are:

a. Requests shall be made via email to the designated Departmental contact or via mail to:

Louisiana Department of Wildlife and Fisheries

Fisheries Permit Manager

P.O. Box 98000

Baton Rouge, LA 70898-9000.

b. Requests shall include:

i. Louisiana Shovelnose Sturgeon permit number,

ii route of transport;

iii. date of transport;

iv. time(s) of transport;

_____ v. destination;
_____ vi. owner of transport vehicle;
_____ vii. species certification made within the past 30 days
identifying shipped stock to species;

_____ viii. total number of Shovelnose Sturgeon;
_____ ix. identification of seller and buyer and any permit numbers
from the jurisdiction of origin to the jurisdiction of destination in which they are coming from

_____ 3. A bill of lading must accompany the live Shovelnose Sturgeon during
import, transport, transfer or sale and shall include:

_____ a. copy of the permittee's written approval as described in Paragraph
C.2. above;

_____ b. date and approximate time of shipment;

_____ c. route of shipment;

_____ d. source of Shovelnose Sturgeon;

_____ e. name, address and phone number of seller,

_____ f. name, address and phone number of buyer;

_____ g. identification and certification as to species;

_____ h. total number of Shovelnose Sturgeon;

_____ i. destination;

_____ j. if imported, the source must provide certificate of health from a
veterinarian or other certified expert stating that Shovelnose are not showing signs of diseases;

_____ k. display the words "SHOVELNOSE" prominently on at least two
sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

D. Rules for Security of Shovelnose Sturgeon Culture Facility

1. Shovelnose Sturgeon live holding facilities will only be permitted in the following parishes: Acadia, Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, De Soto, Evangeline, Franklin, Grant, Jackson, Jefferson Davis, LaSalle, Lafayette, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, Union, Vermilion, Vernon, Webster, West Carrol and Winn.

2. Applicant must demonstrate to the satisfaction of Department officials that adequate security measures are in place at the live holding facility that will guard against vandalism and theft of Shovelnose Sturgeon.

3. Any changes or modification of a permitted security system must first have the approval of Department officials.

4. The Department will have just cause to revoke a Shovelnose Sturgeon permit for lapses in security if:

a. the permittee is found to be in noncompliance with Paragraphs 2 and 3 above;

b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;

c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

5. It shall be the responsibility of the permittee to immediately notify the Secretary or his designee of any Shovelnose Sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism and theft.

6. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

E. Rules of Shovelnose Sturgeon Culture Site

1. A legal description of the Shovelnose Sturgeon live holding facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow Department officials or a Department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the Shovelnose Sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The Department will require a live holding contingency plan for disposal of live Shovelnose Sturgeon in the event of impending flooding or other natural disasters.

5. All Shovelnose Sturgeon shall be tagged with a Departmental approved non-removable tag.

F. Rules for the Shovelnose Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the Shovelnose Sturgeon culture system.

2. The Shovelnose Sturgeon culture system shall be an approved indoor recirculating system designed such that Shovelnose Sturgeon eggs, larvae, fingerlings, juveniles or adults cannot escape.

3. All water utilized in the culture of Shovelnose Sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the Department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Shovelnose Sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Shovelnose Sturgeon through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any Department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the Department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of Shovelnose Sturgeon.

G. Rules for the Processing of Shovelnose Sturgeon

1. All Shovelnose Sturgeon and Shovelnose Sturgeon parts other than live Shovelnose Sturgeon specifically permitted by the department must be properly processed and killed prior to leaving the Shovelnose Sturgeon culture facility. At no time will live Shovelnose be allowed to be moved within Louisiana without expressed approval of the Department. No live Shovelnose shall be sold or transferred to any parties outside of Louisiana. Transfer between

Louisiana Shovelnose Sturgeon permittees within the state of Louisiana must be approved prior to shipment as described in Paragraph C.2. above.

2. Records for the previous 5 years shall be kept at the facility of all Shovelnose Sturgeon processed at a culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of both meat and caviar; and
- c. date processed.

3. A copy of this information shall be sent to the Department's Baton Rouge office at the end of each year, or at any time upon the request of Department officials.

H. General Rules for Shovelnose Sturgeon

1. The cost of a Shovelnose Sturgeon live holding permit shall be \$50, plus the actual cost of the on-site inspection. Qualified universities and other facilities conducting research approved by the Department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

- a. Domesticated Aquatic Organism License;
- b. Wholesale/Retail Dealers license or a Retail Dealer's license

3. Permits are valid for 12 months and expire December 31 every year.

4. Permits are not transferable from person to person, or property to property.

5. Live Shovelnose Sturgeon shall not be sold within Louisiana except to a permitted culture facility.

6. No person may release live Shovelnose Sturgeon, fish or eggs, into the waters of Louisiana (whether public or private).

7. Permittee must agree to collect and provide an adequate number of Shovelnose Sturgeon to the Department or a Department-approved contractor upon request for identification and analysis, at the permittee's expense.

8. The only sturgeon allowed in commercial aquaculture under the Louisiana Shovelnose Sturgeon permit is *Scaphirhynchus platyrhynchus*. No genetically altered Shovelnose Sturgeon or their hybrids are allowed.

9. Shovelnose Sturgeon permittees shall be required to submit an annual report to the Secretary or his designee on a form provided by the Department.

10. The Department may employ whatever means it deems necessary to prevent the release or escapement of Shovelnose Sturgeon or their eggs into the environment. The permittee shall agree to reimburse the Department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The Department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse the Department of Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the Secretary that the permittee will fulfill their financial obligations, the Shovelnose Sturgeon permittee shall post a \$50,000 (Fifty thousand dollars) performance bond, or present a letter of credit from a financial institution stating that the \$50,000 (Fifty thousand dollars) is available to the department on a certificate of deposit.

12. If a permittee terminates Shovelnose Sturgeon culture, the permittee shall notify the Secretary or his designee immediately and dispose of the Shovelnose Sturgeon according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Shovelnose Sturgeon shall be destroyed at permittee's expense under the Department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the Secretary requesting a hearing to review the alleged violation(s) within five days.

I. Collection of Shovelnose Sturgeon Broodstock from Louisiana Waters

1. The Department of Wildlife and Fisheries will allow legally permitted Shovelnose Sturgeon permit holders to collect local broodstock from approved locations on the Red River while under the supervision of Departmental personnel or other approved third parties. The permittee may be charged for man-power and equipment.

2. This collection of broodstock will be limited to 3 years. The permittee may be granted additional years upon approval by the Secretary. The collection must be approved and coordinated with the LDWF Fisheries Permit Manager and the Director of Inland Fisheries and would require a special broodstock collection permit from the Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and final rule, including but not limited to, the filing of the fiscal and economic impact

statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed rule to Mr. Robert Bourgeois, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to 4:30 p.m., Friday, June 1, 2018.

Robert J. Samanie, III

Chairman